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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,371	03/25/2004	Von Friedrich C. Paterro	102901	4729

25944 7590 04/04/2006

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EXAMINER	
RODRIGUEZ, WILLIAM H	
ART UNIT	**PAPER NUMBER**
3746	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/808,371	PATERRO, VON FRIEDRICH C.	
	Examiner	Art Unit	
	William H. Rodriguez	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 11-17* is/are pending in the application.

4a) Of the above claim(s) *4,5 and 11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6 and 12-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8/23/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: 11 pages (attachment)

FINAL REJECTION

This office action is in response to the amendment and remarks filed 1/24/06.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The disclosed invention is inoperative and therefore lacks utility.

The disclosed invention is inoperative and therefore lacks utility because it violates basic principles of thermodynamics and fluid mechanics. For instance, as taught in any Thermodynamics and/or Fluid mechanics textbook* (see attachment), for a converging nozzle (such as 1510, 510 shown by applicant) the pressure decreases/drops for a subsonic or supersonic flow. At the same time the temperature also decreases**. In the invention (Figure 4, elected by applicant), the "combustion chamber" is used for heating air only, no combustion takes place since no fuel is used, thus the subsonic flow exiting this hot air chamber (1230A, 1230B) will drop in pressure and temperature in the converging nozzle 1510 as taught by the very well known and established laws of thermodynamics and fluid mechanics. On the contrary, applicant is violating these laws by stating that "in this section 1510, the exiting gases further expand and **develop high pressure and temperature ever continuously**". In conclusion, no high pressure or high temperature can develop at section 1510 since there is no additional heat being added into this section. If anything, the pressure and temperature will drop because of the fluid acceleration through the converging nozzle 1510.

Applicant statement "**develop high pressure and temperature ever continuously**" appears to be *claiming a type of perpetual motion machine* where the temperature and pressure

increase ever continuously" without the need of an external energy of source that allows this to happen. In conclusion, this perpetual turbine system is inoperative because you cannot have the temperature and pressure of the air exiting the "combustion chamber" ever continuously increase without an external energy source providing additional heat to said air (which the invention lacks).

* Thompson A. Philip, Compressible-Fluid Dynamics, 1998, Department of Mechanical Engineering Rensselaer Polytechnic Institute, page 284 particularly Figure 6.9.

* Reynolds C. William et al., Engineering Thermodynamics, 1977, McGraw Hill, Second Edition, page 500 particularly Figure 13-9.

** Fox W. Robert et al., Introduction to Fluid Mechanics, 1985, John Wiley & Sons, Third Edition, page 602-603 particularly example problem 12.1.

Moreover, applicant states, "the materials of the engine and exhaust are suitably chosen to withstand such heat of up to 3500 Celsius degrees (paragraph 0041 from page 9 to page 10". However, applicant is completely silent about what type of materials will withstand these high temperatures?. Further, applicant does not mention at all a cooling system for cooling the "combustion chambers 1230 A, B" since with these very high temperatures of 3500 Celsius degrees the combustion chamber will melt if a cooling system is not provided.

2. Pursuant to 35 USC 114 and 37CFR 1.91 (b), The Patent and Trademark Office is authorized to require a working model of an invention for which patent protection is sought. Because of the basic question of operability in this case, it is deemed appropriate to invoke that authority. Consequently, **in order to overcome the above rejection, Applicant is required to demonstrate the operability of his invention by way of a working model.**

Note: Failure to provide a working model along with the reply to this Final Rejection will result in abandonment of the application.

In the context of the rejection under 35 USC 101, Applicant's attention is drawn to the following excerpt from the Manual of Patent Examining Procedure, section 2106: The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); In re Ziegler, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> **The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.**

4. Claims 1-3, 6 and 12-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has failed to disclose his invention in a manner to satisfy the enablement requirement, to the extent that one of ordinary skill in the art would know how to make and use the claimed invention, e.g., see the examples given above in the rejection under 35USC 101. Applicant is hereby informed that any attempt to remove from, or modify in the description any teachings in order to get around the rejections under 35USC 101 and 112, 1st paragraph, will not be permitted, in order to preserve the original inventive concept as filed.

Response to Arguments

5. Applicant's arguments filed 1/24/06 have been fully considered but they are not persuasive because of the reasons clearly stated in the 35 USC 101 rejection above. Please refer to detail rejection above. Basically, the basic laws of Thermodynamics and Fluid Mechanics as explained by Thompson, Reynolds and Fox state that for a converging nozzle (as the one shown

by applicant 1510, 510) the pressure and temperature decrease/drop, contrary to applicant's own theory that the pressure and temperature ever continuously.

The Patent Office understands the burden impose on applicant with regards to the request for a working model. However, because of the basic question of operability in this case, it is deemed appropriate to invoke that authority. Consequently, **in order to overcome the above rejection, Applicant is required to demonstrate the operability of his invention by way of a working model**.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

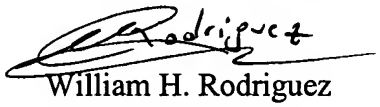
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Rodriguez
Primary Examiner
Art Unit 3746